



NPDA

NATIONAL PRIVATE DUTY ASSOCIATION

The Voice of Private Duty Home Care

Connecticut Chapter

500 Howe Ave., Suite 200, Shelton, CT 06484

February 24, 2011

To: General Law Committee

RE: Testimony on Bill No. 911, An Act Concerning Home Care Consumer and Worker Protections

Dear Senator Doyle, Representative Taborsak and Distinguished Members of the General Law Committee:

I want to thank you for the opportunity to address this growing issue of concern.

My name is Ken Gurin and I am the president of the CT Chapter of the National Private Duty Association (NPDA). Additionally, I am the owner of Comfort Keepers an employer based agency providing homemaker and companion services to the elderly, located in Shelton, CT.

The NPDA is the nation's first association for providers of private duty home care who operate using only pay rolled employees vs. Registries, who use non-employee independent contractors. The mission of the NPDA is to enhance the strength and professionalism for private duty home care and in so doing, maintain high levels of care provided to the consumer. The CT Chapter was formed 4 years ago to promote this mission for our residents, both clients and employees.

With the growing number of people 65+ and especially those in their 80's, the need for homemaking and companionship services has expanded dramatically. These services have become critical for seniors to age in place where they most desire, in their own home. Not only is this more affordable than Skilled Nursing Homes, seniors generally thrive in the comfort and independence the home setting provides them.

On average, Registries are approximately \$5.00 per hour less than employer based providers, but of course this comes at a cost. Today's challenging economic times makes the lower price on the surface, especially attractive to elderly consumers.

However, the Registry model poses risks to both the client and the worker, seldom known by either. Operating outside of the legal requirements of withholding payroll taxes, Social Security and Medicare, Registries place misclassified independent contractors into an elderly consumer's home. Elderly consumers unknowingly become "accidental employers", unaware that they are responsible for handling all payroll tax withholdings and contributions.

Shamefully, these workers are not by IRS definition independent contractors and the Registries collect an hourly fee from the client for merely placing the worker in their home, with no further responsibility. It is important to remember that these cost savings are coming at the expense to the citizen's of CT as the state's cash strapped income is further eroded by not collecting the payroll taxes legally owed.

To make matters worse, these independent contractors are not provided Workers Compensation insurance. Without this insurance which all employer based agencies carry, the elderly consumer is exposed to liability for any injury the worker may suffer in their home; homeowners insurance does not typically provide coverage for injuries of the homeowner's employee.

The risk is real and I can relay a case that recently occurred in an assisted living facility in Trumbull. An aide sent by a Registry physically abused her client requiring subsequent hospitalization. When the Director of the facility called the agency to file a complaint, the Director was told that the aide was not their employee and therefore, the agency had no liability. While the facility ultimately assumed responsibility to protect their resident, the question must be asked what happens in the much more common private home setting. To directly quote the facility's Director "a Registry will never again set foot in our building".

There are serious risks and consequences for the worker as well. Many are not aware that they are not complying with IRS and state payroll tax requirements. Additionally, by not contributing to the social welfare programs of unemployment, Social Security and Medicare, they can be left devastated at the time they need to collect these benefits.

While not questioning the quality of the services delivered by Registries, we believe full disclosure of the potential risks is critical. This way, both the consumers and workers can make an informed, risk/benefit decision. Non-disclosure of this vital information serves no one, except the owners of the Registries who are profiting by putting those they serve at potential risks. Truth in advertising, a long time requirement in most businesses, is sorely needed and long overdue in the home care industry.

This past October, I had the opportunity to address this issue with former Attorney General Richard Blumenthal, who is very supportive of requiring clear and concise disclosure by Registries. A copy of his letter is attached to this testimony.

Thank you for your time to listen to my views and I urge your support of this bill to eliminate the needless risk being exposed to our most vulnerable citizens.

Sincerely,

Kenneth A. Gurin
President, NPDA CT Chapter
& Owner, Comfort Keepers
500 Howe Ave., Shelton, CT 06484

RICHARD BLUMENTHAL
ATTORNEY GENERAL



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Office of The Attorney General
State of Connecticut

October 21, 2010

Kenneth Gurin, President
NPDA Connecticut Chapter
500 Howe Avenue
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Dear Mr. Gurin:

I am writing in response to your letter regarding employee misclassification in the home health care industry. You express concern that patients may be contracting through 'registries' without fully understanding their responsibilities may include payment of employment taxes and other liabilities as an employer.

I understand and share your concern regarding the disadvantage that certain home health care companies have in relation to registries. I would support a clear and concise disclosure requirement for registries regarding the patients' potential liability for employer/employee related expenses. This requirement would be best implemented through state legislation. Therefore, I urge you and your organization to discuss this matter with your state senators and state representatives and obtain their support for such a requirement.

Thank you for bringing your concerns to my attention.

Very truly yours,

A handwritten signature in dark ink, appearing to read "Richard Blumenthal", is written over a faint, larger version of the same signature.

Richard Blumenthal

RB/RFK/sk